

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE ENROLLED ACT No. 1673

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-174 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 174. (a) "Home health aide", for purposes of IC 16-27-1 ~~has the meaning set forth in IC 16-27-1-3.~~ and IC 12-27-1.5, means an individual who provides home health aide services.

(b) The term does not include the following:

- (1) A health care professional.
- (2) A volunteer who provides home health aide services without compensation.
- (3) An immediate member of the patient's family.

SECTION 2. IC 16-27-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 1.5. Registration of Home Health Aides

Sec. 1. The state department shall include in the registry of nurse aides required by 42 CFR 483.156(a) a home health aide who has successfully completed a home health aide competency evaluation program as required by 42 CFR 484.36.

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Sec. 2. Information required for entry of a home health aide in the registry of nurse aides described in section 1 of this chapter must be the same as the information required for nurse aides under 42 CFR 483.156(c).

Sec. 3. (a) The state department shall establish a procedure for the receipt and the timely review and investigation of allegations of:

- (1) neglect of a patient;**
- (2) abuse of a patient; or**
- (3) misappropriation of patient property;**

by a home health aide.

(b) The procedure required under subsection (a) must allow for:

- (1) reasonable notice to the home health aide; and**
- (2) reasonable opportunity for a hearing in which the home health aide may rebut the allegation.**

(c) The state department shall, after following the procedure required under this section, make a finding whether the home health aide:

- (1) neglected a patient;**
- (2) abused a patient; or**
- (3) misappropriated patient property.**

(d) If the state department determines that a home health aide has:

- (1) neglected a patient;**
- (2) abused a patient; or**
- (3) misappropriated patient property;**

the state department shall notify the registry of nurse aides of that determination.

Sec. 4. The state department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 3. IC 16-27-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. An individual who is denied employment or dismissed from employment under this chapter:

- (1) does not have a cause of action;**
- (2) is not eligible for unemployment compensation;**
- (3) does not acquire the rights of an unemployed individual; and**
- (4) does not have other rights under IC 22;**

as a result of the denial or dismissal.

SECTION 4. IC 16-27-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 1999]: **Sec. 9.** A person (other than a person denied employment or dismissed under this chapter or against whom a finding is made for the registry of nurse aides under 42 CFR 483.156) who in good faith:

- (1) denies employment to an individual or dismisses an individual from employment under this chapter;
- (2) testifies or participates in an investigation or an administrative or a judicial proceeding arising from:
 - (A) this chapter; or
 - (B) 42 CFR 483 regarding the registry of nurse aides; or
- (3) makes a report to the state department or the registry of nurse aides;

is immune from both civil and criminal liability arising from those actions.

SECTION 5. IC 34-30-2-67.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 67.5. IC 16-27-2-9 (Concerning persons for denying or terminating employment of an individual with a criminal history, or reporting to or participating in the proceedings of the state department of health or the registry of nurse aides.)**

SECTION 6. IC 16-27-1-3 IS REPEALED [EFFECTIVE JULY 1, 1999].

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